

AMENDED IN ASSEMBLY APRIL 5, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

No. 2305

**Introduced by Assembly Member Bloom**  
**(Coauthor: Assembly Member Levine)**

February 18, 2016

---

~~An act relating to fish. An act to add Section 4502 to the Fish and Game Code, relating to marine mammals.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 2305, as amended, Bloom. ~~Native steelhead trout: study.~~  
*Protection of orcas: unlawful activities.*

(1) Existing law makes it unlawful to take any marine mammal, as defined, except as provided under specified federal laws.

This bill would make it unlawful to hold in captivity an orca, whether wild-caught or captive-bred, for any purpose, including for display, performance, or entertainment purposes; to breed or impregnate an orca held in captivity; to export, collect, or import the semen, other gametes, or embryos of an orca held in captivity for the purpose of artificial insemination; or to export, transport, move, or sell an orca located in the state to another state or country, except as provided.

The bill would provide that a person, corporation, or institution that intentionally or negligently violates these provisions is guilty of a misdemeanor punishable by a fine not to exceed \$100,000. By creating a new crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

*Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law establishes the Department of Fish and Wildlife in the Natural Resources Agency. Under existing law, the department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species.~~

~~This bill would require the department to conduct a study of native steelhead trout, as specified, and to submit the study to the Legislature by January 1, 2018.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 4502 is added to the Fish and Game Code,
- 2     to read:
- 3     4502. This section shall be known, and may be cited, as the
- 4     California Orca Protection Act.
- 5     (a) It is unlawful for any person to do any of the following:
- 6         (1) (A) Except as provided in subparagraph (B) and subdivision
- 7         (c), hold in captivity an orca, whether wild-caught or captive-bred,
- 8         for any purpose, including, but not limited to, display, performance,
- 9         or entertainment purposes.
- 10        (B) An orca located in the state on January 1, 2017, may
- 11        continue to be held in captivity and may continue to be used for
- 12        educational presentations until it is retired or until its death.
- 13        (2) Breed or impregnate any orca held in captivity in the state.
- 14        (3) Export, collect, or import the semen, other gametes, or
- 15        embryos of an orca held in captivity for the purpose of artificial
- 16        insemination.
- 17        (4) Export, transport, move, or sell an orca located in the state
- 18        to another state or country unless otherwise authorized by federal
- 19        law or if the transfer is to another facility within North America
- 20        that meets standards comparable to those provided under the
- 21        Animal Welfare Act (7 U.S.C. Sec. 2131 and following).
- 22        (b) A person, corporation, or institution that intentionally or
- 23        negligently violates subdivision (a) is guilty of a misdemeanor

1 *and, upon conviction thereof, shall be punished by a fine not to*  
2 *exceed one hundred thousand dollars (\$100,000).*

3 *(c) This section does not apply to an orca that is held for*  
4 *rehabilitation after a rescue or stranding or for research purposes.*  
5 *However, an orca that is held for rehabilitation or research*  
6 *purposes shall be returned to the wild whenever possible and, if*  
7 *return to the wild is not possible, the orca shall not be used for*  
8 *breeding, performance, or entertainment purposes.*

9 *(d) As used in this section, the following terms are defined as*  
10 *follows:*

11 *(1) "Educational presentation" means a live, scheduled orca*  
12 *display in the presence of spectators that includes natural*  
13 *behaviors, enrichment, exercise activities, and a live narration*  
14 *and video content that provides science-based education to the*  
15 *public about orcas.*

16 *(2) "Orca" means a killer whale (Orcinus orca).*

17 *(e) The provisions of this section are severable. If any provision*  
18 *of this section or its application is held invalid, that invalidity shall*  
19 *not affect other provisions or applications that can be given effect*  
20 *without the invalid provision or application.*

21 *SEC. 2. No reimbursement is required by this act pursuant to*  
22 *Section 6 of Article XIII B of the California Constitution because*  
23 *the only costs that may be incurred by a local agency or school*  
24 *district will be incurred because this act creates a new crime or*  
25 *infraction, eliminates a crime or infraction, or changes the penalty*  
26 *for a crime or infraction, within the meaning of Section 17556 of*  
27 *the Government Code, or changes the definition of a crime within*  
28 *the meaning of Section 6 of Article XIII B of the California*  
29 *Constitution.*

30 ~~SECTION 1. (a) The Department of Fish and Wildlife shall~~  
31 ~~conduct a study of native steelhead trout. The department shall do~~  
32 ~~all of the following in the study:~~

33 ~~(1) Identify which subspecies of native steelhead trout is best~~  
34 ~~suited for adaptation to warming seas due to climate change.~~

35 ~~(2) Identify areas of the state where the subspecies of native~~  
36 ~~steelhead trout identified in paragraph (1) is found.~~

37 ~~(3) Describe the current level of sustainability, current~~  
38 ~~population condition, and population needs of the subspecies of~~  
39 ~~native steelhead trout identified in paragraph (1).~~

- 1     ~~(4) Identify subspecies of native steelhead trout that are most~~  
2     ~~at risk of extinction due to climate change.~~  
3     ~~(b) (1) The department shall submit the study to the Legislature~~  
4     ~~by January 1, 2018.~~  
5     ~~(2) The study submitted pursuant to this subdivision shall be~~  
6     ~~submitted in compliance with Section 9795 of the Government~~  
7     ~~Code.~~